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NEW MEASURES TO ADDRESS CAPITAL MARKETS FRAUD, PROMOTE WORKPLACE SAFETY, AND MODERNISE THE LAWS REGARDING CORPORATE CRIMINAL LIABILITY

Introduction

Today, I introduced two important bills in the House of Commons.

They are important because they're designed to protect Canadian workers and our capital markets.

I tabled legislative amendments that will help us deal more effectively with the issue of capital markets fraud. I also tabled amendments to the *Criminal Code* regarding corporate criminal liability.

These legislative amendments will help us to detect, prosecute, and deter capital markets fraud, as well to modernise our laws to ensure that organisations are held responsible for the crimes they commit.

As we have seen with the recent corporate scandals in the USA, capital markets fraud is a serious offence that can have dire consequences for companies and investors, as well as national and international economies.

Today, we are fulfilling the commitments made in the 2002 Speech from the Throne and 2003 Budget.

We are working to prevent capital markets fraud and we are introducing tougher measures for those who perpetrate these offences.

Most importantly, these amendments will help protect Canadian families and help ensure that Canadians across the country can invest their savings with safety and confidence.

Capital markets fraud hurts everyone.

It can have a devastating impact on the investments and retirement savings of all Canadians, and it can even threaten the integrity of our financial markets.

Today, we are sending a strong message that the Government of Canada will not tolerate capital markets fraud.

New Offences

We are introducing two new offences to the *Criminal Code*.

The first will address the problem known as "insider trading." This occurs when people use privileged information not available to other investors in order to benefit themselves.

This type of offence can seriously undermine investor confidence. We are determined to stop insider trading with a new *Criminal Code* offence that will carry a maximum penalty of ten years imprisonment.

The second will address the problem of job-related intimidation.

This can occur when employees report unlawful conduct within their corporation, often referred to as "whistle-blowing." Currently, these individuals who play a pivotal role in exposing fraud can be threatened by their employer in many ways, including loss of employment.

The new *Criminal Code* offence is designed to protect those who expose wrongdoing.

Tougher Sentences

The amendments I am proposing today strengthen the penalties for the capital markets fraud offences that are currently in the *Criminal Code*.

These tougher penalties will help ensure that the punishment matches the seriousness of the crime.

Maximum sentences will be raised from ten years to fourteen years imprisonment for current *Criminal Code* offences of fraud and fraud affecting the public market. The maximum prison term for fraudulent manipulation of stock exchange transactions will rise from five to ten years.

In addition, I have introduced specific sentencing factors that the courts will be required to take into consideration, so that the most serious offenders are treated more severely. Aggravating factors, such as the extent of economic damage or amount of profits unlawfully obtained, could warrant a more severe penalty. Furthermore, a person's reputation and status in the community or workplace—which are traditionally used as mitigating factors to lower penalties—will now be inapplicable in these cases, when those who commit serious capital markets fraud rely on these very factors to carry out their crimes.

Concurrent Jurisdiction

For the most serious cases of capital markets fraud, additional resources will be provided at the national level to strengthen investigations and prosecutions. Concurrent federal-provincial jurisdiction will ensure the most serious cases are given the highest priority and prosecuted effectively.

The Government of Canada is already working with the provinces to establish prosecution protocols that would ensure a coordinated and effective implementation of concurrent jurisdiction.

Corporate Criminal Liability

I have also tabled a legislative amendment regarding corporate criminal liability.

The proposed *Criminal Code* amendments impose a legal duty on employers and those who direct work to take reasonable measures to protect employee and public safety. If this duty is wantonly or recklessly disregarded and bodily harm or death results, a corporation could be charged with criminal negligence.

I have also updated the law on corporate criminal liability by ensuring it reflects the current organisation of modern corporations. Corporations will be criminally liable for:

- the actions of officers who oversee day-to-day operations but who may not be directors;
- officers who commit, or direct employees to commit, crimes to benefit the corporation;
- officers who become aware of offences being committed by other employees but do not take action to stop them; and
- the actions of officers and other employees who demonstrate a lack of care that constitutes criminal negligence.

I have also added sentencing provisions that will increase the penalties to reflect the seriousness of the crime, and provide factors that will assist courts in imposing sentence.

This proposed legislation is a direct response to the Westray mine disaster and imposes a legal duty on employers to provide a safe work environment.

It sends a clear message to employers: those who fail to provide safe workplaces will be dealt with severely through the criminal law.

Conclusion

The actions I have proposed today will modernise our laws on corporate liability and help us to better detect, prosecute, and, most importantly, **deter** serious capital markets fraud. The Government of Canada is working with regulators, law enforcement, industry, and the provinces and territories to protect the integrity of Canada's capital markets. We want our markets to be a place where Canadians can invest with safety and confidence.

Date Modified: **2008-04-14**

